

No. 11238

United States
Circuit Court of Appeals
For the Ninth Circuit.

ZEREF A MALOOF,

Appellant,

vs.

UNITED STATES OF AMERICA,

Appellee.

Transcript of Record

Upon Appeal from the District Court of the United States
for the Northern District of California,
Southern Division

FILED

MAY 7 - 1946

PAUL P. O'BRIEN,
CLERK

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[Clerk's Note: When deemed likely to be of an important nature, errors or doubtful matters appearing in the original certified record are printed literally in *italic*; and, likewise, cancelled matter appearing in the original certified record is printed and cancelled herein accordingly. When possible, an omission from the text is indicated by printing in *italic* the two words between which the omission seems to occur.]

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NAMES AND ADDRESSES OF ATTORNEYS:

LEO R. FRIEDMAN,

Russ Building,

San Francisco, California.

Attorney for Defendant and Appellant.

FRANK J. HENNESSY,

United States Attorney,

Northern District of California.

Post Office Building,

San Francisco, California.

Attorneys for Plaintiff and Appellee.

In the Southern Division of the United States District Court for the Northern District of California.

No. 29916-R

UNITED STATES OF AMERICA,

Plaintiff,

vs.

ZEREF A MALOOF,

Defendant.

INFORMATION

(Emergency Price Control Act of 1942, as amended; Title 50 U.S.C.A. App., Sections 902, 904(a) and 925(b).)

Leave of Court being first had, Frank J. Hennessy, United States Attorney for the Northern District of California, comes, and for the United States of America informs this Court: That Zerefa Maloof, (hereinafter called "said defendant") on or about the 15th day of December, 1945, in the City and County of San Francisco, State of California, in the Southern Division of the Northern District of California, and within the jurisdiction of this Court, did unlawfully, wilfully and knowingly rent to B. E. Wood and R. D. Sullivan a certain room in a hotel and rooming house, to-wit, Room No. 11, Hotel Rosslyn, 44 Eddy Street, City and County of San Francisco, State of [1*] California, for a rental price of \$5.00 per night for

* Page numbering appearing at foot of page of original certified Transcript of Record.

two persons, which said sum of \$5.00 per night for two persons was higher than the maximum price fixed by law, said maximum price then and there being \$2.00 per night for two persons, as the said defendant then and there well knew. (Regulations for Hotels and Rooming Houses, 9 F. R. 11322.)

/s/ FRANK J. HENNESSY,
United States Attorney.

(Verification by William F. Lange.)

[Endorsed]: Presented in Open Court and Ordered Filed Dec. 28, 1945. [2]

District Court of the United States, Northern District of Colifornia, Southern Division

No. 29916-R

UNITED STATES

vs.

ZEREFA MALOOF.

Criminal Information in One count for violation of Emergency Price Control Act of 1942, as amended; Title 50 U.S.C.A. App., Sections 902, 904(a) and 925(b).

JUDGMENT AND COMMITMENT

On this 21st day of January, 1946, came the United States Attorney, and the defendant, Zerefa

Maloof, appearing in proper person, and by counsel, and,

The defendant having been Adjudged Guilty by the Court of the offense charged in the Information in the above-entitled cause, to wit: Viol. Title 50 USCA App., Sections 902, 904(a) and 925(b). Defendant did, on or about December 15, 1945, in San Francisco, California, unlawfully rent to two certain individuals a room for the rental price of \$5.00 per night for two persons, which price was in excess of the maximum price fixed by law for such accommodations, and the defendant having been now asked whether she has anything to say why judgment should not be pronounced against her, and no sufficient cause to the contrary being shown or appearing to the Court, It Is by the Court

Ordered and Adjudged that the defendant, having been found guilty of said offenses, is hereby committed to the custody of the Attorney General or his authorized representative for imprisonment for the period of Sixty (60) Days, and pay a fine to the United States of America in the sum of Three Hundred (300.00) Dollars.

It Is Further Ordered that the Clerk deliver a certified copy of this judgment and commitment to the United States Marshal or other qualified officer and that the same shall serve as the commitment herein.

Examined by:

JOSEPH KARESH,
Assistant U. S. Attorney.

/s/ WILLIAM HEALY,
United States District Judge.

The Court recommends commitment to a County Jail.

Filed and Entered this 21st day of January, 1946.

/s/ C. W. CALBREATH,
Clerk.

(by) JOHN J. DRISCOLL,
Deputy Clerk. [3]

[Title of Court and Cause.]

NOTICE OF APPEAL

Name and address of appellant—Zerefa Maloof,
44 Eddy Street, San Francisco, California.

Name and address of appellant's attorney—Wil-
liam Klein, 110 Sutter Street, San Francisco 4,
California.

Offense: Violating Emergency Price Control
Act of 1942, as amended; Title 50 U.S.C.A. App.,
Sections 902, 904(a) and 925(b).

Date of Judgment: January 21, 1946.

Brief description of judgment or sentence: Sen-
tenced to sixty days in the County Jail and to pay
a fine of Three Hundred (\$300.00) Dollars.

Name of prison where now confined, if not on bail
—County Jail, City and County of San Francisco.

I, the above-named Appellant, hereby appeal to the United States Circuit Court of Appeals for the Ninth Circuit from the judgment above-mentioned on the grounds set forth below.

/s/ ZEREFMA MALOOF.

Dated: San Francisco, California, January 21, 1946.

GROUNDS OF APPEAL

1. Errors of law committed during the trial of the above-entitled matter.

2. That the judgment of the Court is not supported by the evidence.

(Receipt of Service.)

[Endorsed]: Filed Jan. 22, 1946. [4]

[Title of District Court and Cause.]

DESIGNATION OF POINTS AND ASSIGNMENT OF ERRORS

Now comes Zerefa Maloof, the defendant in the above-entitled cause, who has heretofore appealed to the United States Circuit Court of Appeals for the Ninth Circuit from the judgment and sentence heretofore given, made and entered against her in and by the said District Court in the cause entitled

and numbered as above, and having heretofore duly given her notice of appeal in the manner and form provided by law and by the rules of the Supreme Court of the United States governing appeals in criminal cases, files this, her assignment of the errors upon which she will rely for the reversal of the judgment and sentence aforesaid, and says that in the record and proceedings aforesaid, as also in the judgment of the plea herein, manifest error hath happened to the grievous damage of her, the said Zerefa Maloof, in each and every of the following particulars, to-wit:

I.

That the information in the above-entitled cause does not [5] state facts sufficient to charge this defendant with any crime or offense against the United States of America.

II.

That the said District Court had no jurisdiction to hear or determine the above-entitled cause for the reason that the Regulations for Hotels and Rooming Houses (9 F. R. 11322) are void for uncertainty, and are so indefinite and vague that no person can ascertain therefrom what rentals can or may be charged thereunder, and that this defendant and all other persons affected thereby are compelled to speculate as to the meaning thereof at the peril of their liberty and property; and that the conviction of this defendant on said information and the judgment and sentence pronounced on said conviction deprive this defendant of her

liberty and property without due process of law within the meaning of the Fifth Amendment to the Constitution of the United States.

Wherefore, the said defendant, Zarefa Maloof, prays that the aforesaid judgment of said District Court be reversed and that she may go hence without day.

Dated March 22, 1946.

/s/ ZAREFA MALOOF,
Defendant and Appellant.

/s/ LEO R. FRIEDMAN,
Attorney for Defendant and
Appellant.

Service admitted March 22, 1946.

/s/ FRANK J. HENNESSY,
United States Attorney,
Per T. S.

[Endorsed]: Filed Mar. 22, 1946. [6]

[Title of District Court and Cause.]

ORDER DIRECTING FILING OF ASSIGN-
MENT OF ERRORS, AND FORWARDING
OF RECORD TO CIRCUIT COURT OF
APPEALS.

(Rule 8, Criminal Appeals Rules)

It appearing from the record herein and from the application of counsel for the defendant in this cause that the appeal of the said defendant from

the judgment herein to the United States Circuit Court of Appeals for the Ninth Circuit is to be prosecuted upon the clerk's record of proceedings without a bill of exceptions, it is hereby ordered by the undersigned trial judge that the said defendant and appellant be, and she is hereby directed to file with the clerk of the trial court on or before the 29th day of March, 1946, a statement of points and assignment of errors of which she complains, and the clerk of said court is hereby directed to forward promptly, with his certificate, to said Circuit Court of Appeals, the above-mentioned record and assignment of errors.

Dated March 22, 1946.

WILLIAM HEALY,
United States Circuit Judge, sitting herein as a
District Judge.

[Endorsed]: Filed Mar. 26, 1946. [7]

District Court of the United States,
Northern District of California

**CERTIFICATE OF CLERK TO TRANSCRIPT
OF RECORD ON APPEAL**

I, C. W. Calbreath, Clerk of the District Court of the United States, for the Northern District of California, do hereby certify that the foregoing 7 pages, numbered from 1 to 7, inclusive, contain a full, true, and correct transcript of the records and proceedings in the case of United States of

America, Plaintiff, vs. Zerefa Maloof, Defendant, No. 29916-R, as the same now remain on file and of record in my office, together with the original Designation of Points and Assignment of Errors.

I further certify that the cost of preparing and certifying the foregoing transcript of record on appeal is the sum of \$1.60 and that the said amount has been paid to me by the Attorney for the appellant herein.

In Witness Whereof, I have hereunto set my hand and affixed the seal of said District Court at San Francisco, California, this 27th day of March, A. D. 1946.

[Seal] C. W. CALBREATH,
 Clerk.

By M. E. VAN BUREN,
Deputy Clerk. [8]

[Endorsed]: No. 11238. United States Circuit Court of Appeals for the Ninth Circuit. Zerefa Maloof, Appellant, vs. United States of America, Appellee. Transcript of Record. Upon Appeal from the District Court of the United States for the Northern District of California, Southern Division.

Filed April 5, 1946.

/s/ PAUL P. O'BRIEN,
Clerk of the United States Circuit Court of Appeals for the Ninth Circuit.